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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Jay G. Geertsen  
James E. Higgins  
Benjamin D. Kafka

ASSIGNEE: Communitect, Inc.

SERIAL NUMBER: n/a  
DATE FILED: n/a

TITLE: A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING  
MULTIPLE MESSAGE TYPES

ATTORNEY DOCKET: 4507 P

Mail Stop: PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### DECLARATION FOR PATENT APPLICATION

Honorable Commissioner:

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe that I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING MULTIPLE MESSAGE TYPES the specification of which

☒ is attached hereto  
☐ was filed on \_\_\_\_\_  
as Application Serial No. \_\_\_\_\_  
and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)

Priority Claimed

----- (Number)	----- (Country)	----- (Date)	<input type="checkbox"/> Yes <input type="checkbox"/> No
----- (Number)	----- (Country)	----- (Date)	<input type="checkbox"/> Yes <input type="checkbox"/> No
----- (Number)	----- (Country)	----- (Date)	<input type="checkbox"/> Yes <input type="checkbox"/> No

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

Prior Provisional Application(s)

<u>60/404,861</u> ----- (Application No.)	<u>August 21, 2002.</u> ----- (Filing Date)
----------------------------------------------	------------------------------------------------

----- (Application No.)	----- (Filing Date)
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----- (Application No.)	----- (Filing Date)
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I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior United States Application(s):

----- (Application No.)	----- (Filing Date)	----- (Status – patented, pending, abandoned)
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----- (Application No.)	----- (Filing Date)	----- (Status – patented, pending, abandoned)
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----- (Application No.)	----- (Filing Date)	----- (Status – patented, pending, abandoned)
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Power of Attorney

I hereby appoint Lloyd W. Sadler (Reg. No. 40,154), Daniel P. McCarthy (Reg. No. 36,600), and Douglas M. Grover (Reg. No. 52,974) as my representatives and attorneys and/or agents to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. All communications should be directed to Mr. Sadler at the following address or telephone number:

Lloyd W. Sadler  
PARSONS BEHLE & LATIMER  
201 South Main Street, Suite 1800  
Salt Lake City, Utah 84111  
(801) 532-1234 - telephone  
(801) 536-6111 - facsimile

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of inventor: Jay G. Geertsen

Residence of inventor:

Address: 533 W. 860 North  
City: American Fork  
State: Utah 84003  
Citizenship: United States of America

Post Office Address of Inventor:

Address: 533 W. 860 North  
City: American Fork  
State: Utah 84003

Inventor's Signature:

Jay G. Geertsen

Date:

11 Aug 2003

Full name of inventor: James E. Higgins

Residence of inventor:

Address: 9868 N Dorchester Dr  
City: Cedar Hills  
State: UT 84062  
Citizenship: United States of America

Post Office Address of Inventor:  
Address:

9868 N Dorchester Dr

City:

Cedar Hills

State:

UT 84062

Inventor's Signature:



Date:

8/11/03

Full name of inventor:

Benjamin D. Kafka

Residence of inventor:

Address:

2203 S. 2000 West

City:

Mapleton

State:

UT 84664

Citizenship:

United States of America

Post Office Address of Inventor:

Address:

2203 S. 2000 West

City:

Mapleton

State:

UT 84664

Inventor's Signature:

Not Signed - See Attached Declaration  
On Behalf of Inventor who Refuses  
To Sign

Date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Jay C. Geertsen  
James E. Higgins  
Benjamin D. Kafka

ASSIGNEE: Communitect, Inc.

SERIAL NUMBER: n/a

DATE FILED: n/a

TITLE: A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING  
MULTIPLE MESSAGE TYPES

ATTORNEY DOCKET: 4507 P

Mail Stop: PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION FOR PATENT APPLICATION  
ON BEHALF OF INVENTOR WHO REFUSES TO SIGN  
(37 C.F.R. § 1.47(b))

Honorable Commissioner:

I, James E. Higgins, hereby declare that:

I. I am a citizen of the United States of America residing at 9868 N. Dorchester Drive, Cedar Hills, Utah 84062, U.S.A.

II. I

- ☒ am a person with sufficient proprietary interest.  
☒ am authorized by the following person or juristic entity with sufficient proprietary interest.

Assignee: Communitect, Inc.  
(name of assignee or entity having sufficient proprietary interest)

588 W. 400 South, Lindon, Utah 84042, U.S.A.  
(address of assignee or entity having sufficient proprietary interest)

Chief Executive Officer  
(title of person executing this declaration and authorization to sign on behalf of assignee or entity having sufficient proprietary interest)

III. By virtue of this proprietary interest, I sign this declaration on behalf of, and as agent

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for:

Full name of (first, second etc.) Benjamin D. Kafka nonsigning inventor who

- ☒ refused to sign.  
☐ cannot be found or reached.

United States of America  
(country of citizenship of nonsigning inventor)

2203 S. 2000 West, Mapleton, Utah 84664, U.S.A.  
(last known address of nonsigning inventor)

IV. Upon information and belief, I aver those facts that the inventor is required to state, 37 C.F.R. § 1.64(b).

V. Accompanying this declaration is:

- (1) a statement of facts in support of filing on behalf of nonsigning inventor,
- (2) a statement by person signing on behalf of nonsigning inventor establishing proprietary interest,
- (3) the petition fee of \$130.00

Dated: 8/19/03

Signed: [Signature]

Co-Inventor and Chief Executive Officer of  
Assignee - Communitect, Inc.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

INVENTORS: Jay C. Geertsen  
James E. Higgins  
Benjamin D. Kafka

ASSIGNEE: Communitect, Inc.

SERIAL NUMBER: n/a

DATE FILED: n/a

TITLE: A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING  
MULTIPLE MESSAGE TYPES

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**STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF  
NONSIGNING INVENTOR  
(37 C.F.R. § 1.47(b))**

In re application of: Geertsen et al.

For: A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING MULTIPLE MESSAGE  
TYPES

the specification of which:

☒ is attached hereto.

☐ was filed on \_\_\_\_\_ as Application Serial No. \_\_\_\_\_  
and was amended on \_\_\_\_\_ (if applicable).

☐ was described and claimed in International Application No. \_\_\_\_\_  
filed on \_\_\_\_\_ and as amended on \_\_\_\_\_ (if any).

This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above-identified patent application before deposit thereof in the Patent and Trademark Office.

☐ Because signing on behalf of the nonsigning inventor is by a person or entity showing a sufficient proprietary interest, this statement also recites facts as to why this action was necessary to preserve the rights of the parties or to prevent irreparable damage.

The following statement of facts is hereby made for the purpose of showing (1) the signer of this statement has a proprietary interest in this patent application; (2) the signer of this statement has a relationship to the non-signing inventor and makes all statements herein of his own personal first-hand knowledge or upon information and belief; (3) the non-signing inventor after having opportunities to sign the application papers has refused to sign the application papers; (4) the last known address of the non-signing inventor; (5) that the non-signing inventor has agreed in writing to assign the invention to the assignee, for whom the signer is an officer; and (6) that the filing of the application is necessary to preserve the rights of the parties and prevent irreparable damage.

Accordingly,

1. My name is James E. Higgins. I am a citizen of the United States of America, a resident of Lindon, Utah, U.S.A.
2. I am a coinventor with Jay G. Geertsen and Benjamin D. Kafka of the invention claimed in the patent application entitled A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING MULTIPLE MESSAGE TYPES (hereinafter "this patent application"). As such I have a proprietary interest in this patent application.
3. I am the Chief Executive Officer of Communitect, Inc., a Utah Corporation.
4. Communitect, Inc. is the assignee of this patent application. A copy of the executed assignment is attached. As the Chief Executive Officer of Communitect, Inc., I represent Communitect, Inc.'s proprietary interest in this patent application.
5. Each of the inventors are or were employees of Communitect, Inc. during the time of conception and reduction to practice of the invention claimed in this patent application.
6. Jay G. Geertsen and myself have executed the required application papers, including the Declaration for Patent, enclosed.
7. Benjamin D. Kafka agreed in writing in his employment agreement with Communitect, Inc. to assign to Communitect, Inc. all information and inventions developed by himself, alone or with others, during or arising out of his employment at Communitect, Inc. A copy of the Kafka - Communitect, Inc. Employee Agreement is attached.
8. The invention claimed in this patent application, was substantially complete by August 2002, when a Provisional Patent Application was filed for this invention.
9. Because of cost constraints, this patent application, claiming priority to the Provisional Patent Application, was begun on about August 1, 2003.
10. In about February of 2003, Benjamin D. Kafka ceased to be employed by Communitect, Inc.
11. Benjamin D. Kafka has been presented with electronic copies of this patent application and of the signing papers.
12. At least six telephone conferences were held with Benjamin D. Kafka during the month of August 2003. These telephone conferences were between Mr. Kafka and myself, Mr. Kafka and Jay G. Geertsen, the other inventor, and Mr. Kafka and Mr. Douglas Grover, the Registered Patent Agent assigned to prepare this patent application. Mr. Kafka was

offered additional paper copies of this patent application and of the application papers. During these conferences Mr. Kafka was repeatedly requested to review this patent application and to sign and return the application papers. In each instance Mr. Benjamin D. Kafka refused to sign the application papers, indicating that since he was no longer employed by Communitect, Inc. he had decided not to cooperate. Communitect, Inc. has made all possible diligent efforts to convince Benjamin D. Kafka to execute the application papers.

13. The last known address of Benjamin D. Kafka is: 2203 S. 2000 West, Mapleton, Utah 84664, U.S.A.
14. This patent application covers an invention critical to future of Communitect, Inc. Communitect, Inc. has invested substantial resources in the development of the invention covered by this patent application. It claims priority to a Provisional Patent Application filed on August 21, 2002. The loss of the priority date and/or the loss of patent rights to this invention could do a serious irreparable harm to Communitect, Inc.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: 8/19/03

Signed:   
James E. Higgins, Co-Inventor and  
Chief Executive Officer of  
Assignee - Communitect, Inc.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Jay G. Geertsen  
James E. Higgins  
Benjamin D. Kafka

ASSIGNEE: Communitect, Inc.

SERIAL NUMBER: n/a  
DATE FILED: n/a

TITLE: A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING  
MULTIPLE MESSAGE TYPES

ATTORNEY DOCKET: 4507 P

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P.O. Box 1450  
Alexandria, VA 22313-1450

### VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS

--SMALL BUSINESS CONCERN--  
(37 CFR 1.9(f) AND 1.27(c))

Honorable Commissioner:

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
- ☒ an official of the small business concern identified below and that I am  
empowered to act on behalf of said corporation:

NAME OF CONCERN: Communitect, Inc.  
ADDRESS OF CONCERN: 588 West 400 South  
Lindon, Utah 84042

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR § 121.3-18, and reproduced in 37 CFR § 1.9(d) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the business concern, including those of its affiliates, does not exceed 500 persons. For the purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING MULTIPLE MESSAGE TYPES** by the above-named inventors described in

- ☒ the specification filed with this declaration.
- ☐ application Serial No. \_\_\_\_\_, filed \_\_\_\_\_.
- ☐ Patent No. \_\_\_\_\_, issued \_\_\_\_\_.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR § 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR § 1.9(d), or a nonprofit organization under 37 CFR § 1.9(e).

- ☒ no such person, concern or organization exists.
- ☐ each such person, concern or organization is listed below:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

- ☐ INDIVIDUAL ☐ SMALL BUSINESS ENTITY
- ☐ NONPROFIT ORGANIZATION

I acknowledge the duty of the small business concern to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the due date on which status as a small entity is no longer appropriate. (37 CFR § 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

On Behalf of: Communitect, Inc.

NAME OF PERSON SIGNING: James E. Higgins

TITLE OF PERSON SIGNING: CEO/President

SIGNATURE:  DATE: 8/11/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTORS: Jay G. Geertsen  
James E. Higgins  
Benjamin D. Kafka

ASSIGNEE: Communitect, Inc.

SERIAL NUMBER: n/a  
DATE FILED: n/a

TITLE: A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING  
MULTIPLE MESSAGE TYPES

ATTORNEY DOCKET: 4507 P

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P.O. Box 1450  
Alexandria, VA 22313-1450

**VERIFIED STATEMENT (DECLARATION)  
CLAIMING SMALL ENTITY STATUS**

**--INDEPENDENT INVENTOR--  
(37 CFR 1.9(c), (f) and 1.27(b))**

Honorable Commissioner:

As the below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR § 1.9(c) for the purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled A METHOD AND SYSTEM FOR SCHEDULING AND TRANSMITTING MULTIPLE MESSAGE TYPES described in a patent application filed herewith.

I have not assigned, granted, conveyed or licensed and I am not under any obligation under contract or law to assign, grant, convey or license any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR § 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR § 1.9(d) or a nonprofit organization under 37 CFR § 1.9(e).

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the due date on which status as a small entity is no longer appropriate. (37 CFR § 1.28(b)).

I hereby declare that all statements made herein are of my own knowledge and are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the

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United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Signature of Inventor:

Name of Inventor:

Jay G. Geertsen  
Jay G. Geertsen

Date:

11 Aug 2003

Signature of Inventor:

Name of Inventor:

James E. Higgins  
James E. Higgins

Date:

8/11/03

Signature of Inventor:

Name of Inventor:

Benjamin D. Kafka

Date:

\_\_\_\_\_

## COMMUNITECT, INC.

### EMPLOYEE CONFIDENTIALITY AND NON-COMPETE AGREEMENT

This Confidentiality and Non-compete Agreement (the "Agreement") is between Communitect, Inc., a Delaware corporation ("Communitect") and the undersigned employee ("Employee").

Employee's employment by Communitect creates a relationship of confidence and trust between Employee and Communitect with respect to certain information applicable to the business of Communitect and its clients or customers. Communitect possesses and will continue to possess information that has commercial value and is treated by Communitect as confidential. Such information may include information created, discovered or developed by Employee during the period of or arising out of his or her employment by Communitect, whether before or after the date hereof. Such information may also include information belonging to Communitect's clients, business partners, customers or suppliers. All such information is hereinafter called "Confidential Information," which term includes, without limitation, developments, designs, improvements, inventions, software, processes, computer programs, know-how, data, techniques, formulas, marketing and business plans and outlines, strategies, budgets, forecasts, projections, unpublished financial statements, costs, fee schedules, client and supplier lists, client and prospective client databases, access codes and similar security information and procedures, and all patents, copyrights, maskworks, trade secrets and other proprietary rights thereto; provided, however, that the term "Confidential Information" shall not include any of the foregoing that is in the public domain other than as the result of a breach of an obligation of confidentiality.

Employee recognizes that any unauthorized use or disclosure of Confidential Information would cause serious injury to Communitect. Communitect's willingness to employ Employee depends upon his or her commitment to protect Communitect's Confidential Information and to comply with this Agreement. Therefore, Employee hereby agrees:

#### **1. Protection of the Confidential Information.**

a. During and after Employee's employment, Employee shall hold the Confidential Information in confidence and shall protect it with utmost care. Employee shall not disclose, copy, or permit any person to disclose or copy any of the Confidential Information, and Employee shall not use any of the Confidential Information, except as necessary to perform his or her duties as an employee of Communitect.

b. In the event that Employee has or has had access to any Confidential Information belonging to any third party, including but not limited to any of Employee's previous employers, Employee shall hold all such Confidential Information in confidence and shall comply with the terms of any and all agreements between Employee or Communitect and the third party with respect to such Confidential Information.

2. **Exceptions.** This Agreement will not be interpreted to prevent the use or disclosure of information that (i) is required by law to be disclosed, but only to the extent that such disclosure is legally required, (ii) becomes a part of the public knowledge other than by a breach of an obligation of confidentiality, or (iii) is rightfully received from a third party not obligated to hold such information confidential.

3. **Return of Confidential Information.** Upon Communitect's request, and in any event upon termination of Employee's employment for any reason, Employee shall promptly return to Communitect all materials in his or her possession or control that contain or represent Confidential Information, including but not limited to documents, drawings, diagrams, flow charts, computer programs, memoranda, notes, and every other medium, and all copies thereof.

4. **Assignment of Intellectual Property.**

a. Employee will promptly disclose to Communitect all Confidential Information, whether or not registrable under copyright or other intellectual property or similar laws, made or conceived or reduced to practice or learned by Employee, either alone or jointly with others, during the period of his or her employment that (i) at the time of conception or reduction to practice are related to the actual or demonstrably anticipated business of Communitect, (ii) result from tasks performed by Employee for Communitect, or (iii) are developed on any amount of Communitect's time or result from the use of premises or property (including computer systems) owned, leased, or contracted for by Communitect (collectively, "Intellectual Property"). All Intellectual Property shall at all times and for all purposes be the sole property of Communitect. Employee hereby assigns and agrees to assign any rights he or she may have or acquire in any Confidential Information or Intellectual Property.

b. Attached as Exhibit A is a list of all intellectual property and information created, discovered or developed by Employee whether or not registrable under copyright or other intellectual property or similar laws, made or conceived or reduced to practice or learned by Employee, either alone or jointly with others, excluding any Intellectual Property, relating in any way to Communitect's business or demonstrably anticipated research and development that were made by Employee prior to his or her employment with Communitect (the "Employee Intellectual Property"). Employee represents that Exhibit A is complete and contains no Confidential Information. Employee understands that he or she has no rights in any such Employee Intellectual Property other than those listed on Exhibit A. If there is nothing identified on Exhibit A, Employee represents that he or she has no Employee Intellectual Property as of the time of signing this Agreement.

c. Employee shall (i) treat all information with respect to Intellectual Property as Confidential Information within the meaning of this Agreement; (ii) keep complete and accurate records of the Intellectual Property, which records will be the property of Communitect; (iii) testify in any proceedings or litigation related to the Intellectual Property; and (iv) in case Communitect will

desire to keep secret any Intellectual Property, refrain from disclosing the Intellectual Property.

d. Employee shall assist Communitect in every way deemed necessary or desirable by Communitect (but at Communitect's expense) to obtain and enforce copyrights, trademarks and other rights and protections relating to any Confidential Information and Intellectual Property in any and all countries, and to that end Employee will execute all documents for use in obtaining and enforcing such copyrights, trademarks and other rights and protections as Communitect may desire, together with any assignments thereof to Communitect or persons designated by it. If Communitect is unable for any reason to secure Employee's signature to any document required to apply for or execute any copyright, mask work or other applications with respect to any Intellectual Property (including improvements, renewals, extensions, continuations, divisions or continuations in part thereof), Employee hereby irrevocably designates Communitect and its duly authorized officers and agents as Employee's agents and attorneys-in-fact for and on Employee's behalf to execute and file any such application and to do all other lawfully permitted acts to further the issuance of copyrights, maskworks or other rights thereon with the same legal force and effect as if executed by Employee. Employee's obligation to assist Communitect shall continue beyond the termination of his or her employment, but Communitect shall compensate Employee at a reasonable rate after his or her termination for time actually spent by Employee at Communitect's request on such assistance.

5. **No Conflicts with Prior Obligations.** Employee represents and warrants that his or her employment by Communitect and his or her performance of this Agreement will not conflict with any obligations that Employee may have with third parties. Without limiting the foregoing, Employee agrees that he or she will not disclose to Communitect or use in Communitect's behalf any confidential or proprietary information belonging to a third party, unless the third party has consented in writing to the disclosure or use of the information.

6. **Covenant not to Compete.** For a period of one (1) year from the date of any termination of Employee's employment with Communitect for any reason, Employee shall not accept employment with or render any service to a direct competitor of Communitect or create a competing business. "Direct Competitor" and "competing business" are defined as any business or entity that provides services or products that are competitive with or substitutable for any Communitect service or product, whether existing or in development. Employee acknowledges that the restrictions imposed by this Agreement are reasonable and will not preclude Employee from being gainfully employed following a termination of employment with Communitect.

7. **Covenant not to Solicit.** For a period of one (1) year from the date of any termination of Employee's employment with Communitect for any reason, Employee shall not solicit for employment, attempt to employ, or assist any other person or entity in employing or soliciting for employment, any employee or representative of Communitect, either for Employee or for any other entity.

8. **Equitable Remedies.** Employee acknowledges that breach of this Agreement would cause Communitect to suffer irreparable harm for which monetary damages would be inadequate compensation. Employee agrees that Communitect will be entitled to an injunction restraining any actual or threatened breach of this Agreement, or specific performance, if applicable, in addition to any monetary damages.

9. **No Contract of Employment Created by this Agreement.** This Agreement does not create an express or implied contract of employment. Rather, the employment relationship between Employee and Communitect is governed by the terms of the Employment Agreement between Communitect and Employee.

10. **Entire Agreement.** This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior agreements, whether written or oral.

11. **Waiver and Amendment.** This Agreement may be amended only by a writing signed by both parties hereto. No oral waiver, amendment or modification of this Agreement shall be effective under any circumstances. The waiver by Communitect of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach of this Agreement by Employee.

12. **Term of Agreement.** This Agreement will remain in force during Employee's employment and will continue thereafter until all Confidential Information acquired by Employee becomes part of the public knowledge other than through a violation of this Agreement.

13. **Successors and Assigns.** This Agreement shall be binding upon and continue to the benefit of successors and assigns of Communitect whether by way of merger, consolidation, operation of law, assignment, purchase, or other acquisition of substantially all the assets or business of Communitect.

14. **Severability.** Should any provision of this Agreement be considered unenforceable by a court of law, the remainder of the Agreement shall remain in force to the fullest extent permitted by law.

15. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the state of Utah, without giving effect to principles of conflicts of law. Employee hereby consents to the personal jurisdiction of the state and federal courts located in the State of Utah in connection with any litigation related to this Agreement and agrees that the exclusive venue for any such litigation shall be in such courts located in the State of Utah.

I HAVE READ THIS ENTIRE AGREEMENT AND FULLY UNDERSTAND  
THE LIMITATIONS THAT IT IMPOSES UPON ME.

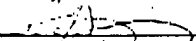
Date: 11/19/2001

EMPLOYEE:

  
(name)

ACKNOWLEDGMENT OF  
COMMUNITECT, INC.

Date: 11/19/2001

By: 

Print Name: Jim Higgins

Title: CEO

## **EXHIBIT A**

The following is a list of all Employee Intellectual Property created, conceived, developed or reduced to practice by Employee prior to the date of this Agreement:

2645579\_1.DOC